Supreme Court, U.S.
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No. 95-1110

In The
Supreme Court of the United States
October Term, 1995

Arthur A. Blumeyer, III and John W. Peckham. Jr.,
Petitioners

v.

United States of America,
Respondent

Petition for Writ of Certiorari
to the United States Court of Appeals
for the Eighth Circuit

REPLY TO MEMORANDUM IN OPPOSITION

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APP

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REPLY TO MEMORANDUM FOR THE UNITED STATES IN OPPOSITION

The exercise of the Court's review powers at this time is appropriate for several reasons. The issues presented by Petitioners are sufficiently unrelated to and distinct from the underlying prosecution to warrant review at this time. The questions presented by petitioners involve the appropriate analysis to apply when juror misconduct occurs.

Extrinsic juror misconduct strikes at the very

foundation of the criminal justice system. The delay of review by this Court, suggested by the government would result in Petitioners being sentenced and incarcerated, having to pursue their direct appeals, and then possibly several years later, again asking this Court to review the actions of the court of appeals in reversing the district court's granting of motions for a new trial.

Delay is not appropriate in this case. The 1984 amendments to 18 U.S.C. §3731 (The Federal Criminal Appeals Act of 1970) are similar in operation to the provisions of the Bail Reform Act of 1984 18 U.S.C. §3141 et seq. in that both parties, the government and the defendant, are permitted to seek appellate review of detention/release determinations and to seek review of those issues before this Court independent of the progress of the underlying criminal prosecution. See United States v. Salerno, 481 U.S. 739 (1987). A grant of certiorari at this time to review the important questions involved in the analysis performed by the United States Court of Appeals for the Eighth Circuit is appropriate.

This Court clearly has jurisdiction to review the judgement of the Eighth Circuit because the jurisdiction of the Eighth Circuit Court of Appeals was properly invoked. The Conqueror, 166 U.S 110, 113-14 (1897). The Court has granted certiorari to review an important question of law, such as remanding a case for a new trial. United States v. General Motors Corp., 323 U.S. 373, 377 (1945).

For the foregoing reasons, the government should be required to respond on the merits.

Respectfully submitted,

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